IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

Bail Appl..No. 4277 of 2007()

CP.106/2005 of J.M.F.C.,ALATHUR
CRIME NO.5 OF 2003 OF WADAKKNCHERY POLICE STATION

.....

PETITIONER/ACCUSED

PRAKASAN, AGED 37 YEARS,
SON OF PONNAN, NAIR KUNNU,
KIZHAKKENCHERRY, ALATHUR.

BY ADV. SRI.S.M.PREM
SMT.K.P.SANTHI

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4277 of 2007

Dated this the 16th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations inter alia under Section 307 read with 149 I.P.C. The petitioner was arrested and released on bail in the course of investigation. Later, after completion of the investigation, final report has been filed. Cognizance has been taken and committal proceedings has been registered. Consequent to the non-appearance of the petitioner, a warrant of arrest has been issued and the petitioner finds such warrant of arrest issued by the learned Magistrate chasing him. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence was not wilful. No notice was ever served on him. The petitioner is willing to co-operate with the learned Magistrate for the expeditious disposal of the case against him. He is willing to surrender. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007